

GOVERNMENT OF ANDHRA PRADESH

A B S T R A C T

Public Servants – Panchayat Raj & Rural Development Department - Certain allegations of corruption against Sri U.S.R.Anjaneyulu, former Panchayat Secretary, Subbaraya- gudem Village, Penuganchiprolu Mandal, Krishna District – Trapped by the Anti-Corruption Bureau authorities – Case entrusted to the Tribunal for Disciplinary Proceedings enquiry – Disagreement factors communicated – Imposition of penalty of withholding of 5% pension permanently – Orders – Issued.

PANCHAYAT RAJ & RURAL DEVELOPMENT (Vig.IV) DEPARTMENT

G.O.Rt.No: 87

Dated:- 23-01-2010.

Read the following:-

1. Proceedings of the District Collector(PW), Krishna No: 1184/ 03, dt:- 17-4-2003.
2. Inquiry Report in TEC No: 101 of 2004, Dt:- 17-11-2006
3. Govt.Memo.No: 5500/Vig.IV.A2/2004-6, Dt:- 1-5-2007
(Communication of TDP enquiry report with disagreement factors)
4. Explanation of the Charged Officer, Dt:- 6-6-2007.
5. Govt.Memo.No: 5500/Vig.IV.A2/2004-9, Dt:- 1-7-2009 (show cause notice)
6. From the District Panchayat Officer, Krishna, Machilipatnam, Lr.Roc.No: 1184/ 03, Pts.3, Dt:- 30-11-2009.

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In the ref., 1st read above, Sri U.S.R.Anjaneyulu, Panchayat Secretary, Subbaygudem Village, Penuganchiprolu Mandal, Krishna District has been placed under suspension by the District Collector, Krishna District, Machilipatnam based on the information received from the Dy. Superintendent of Police, Anti-Corruption Bureau, Vijayawada range that the Accused Officer has been trapped by the officials on 7.4.2003 when he demanded and accepted bribe from the complainant for recommendation and certification of possession of house.

2. Government, after examination of the issue, have entrusted the case to the Tribunal for Disciplinary Proceedings vide Memo., dt:- 4-6-2004. The Tribunal for Disciplinary Proceedings, after having conducted enquiry, submitted their report vide ref. 2nd read above that the Charged Officer is not guilty of the charge and it is recommended for total exoneration of the Charged Officer from the charge. However, Govt., on examination of the report, deviated it on the following points:-

The Tribunal for Disciplinary Proceedings report is only advisory and the departmental authority is a right to accept or take a different view basing on the material. In trap cases, mainly the following four elements are to be examined:

Motive:- Though the Charged Officer has stated that he is not entitled to issue any certificate as reported by the complainant, the M.R.O., has clearly stated that the Panchayat Secretary has to do some work in that regard and necessarily the aspirants should depend on Panchayat Secretary to get possession certificates from MRO. Thus motive is proved.

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ii) **Demand:-** The Member, TDP raised certain lapses on the dates of demand mentioned by the complainant. Most of the beneficiaries, being illiterates and also ignorant of the correct procedure, the aspirants could not clearly give evidence in this regard as on what dates earlier they met the CO. It is not a set back to the required evidence.

iii) **Further demand and acceptance -** On the day of trap, when the complainant (PW.1) approached the CO at his house, the C.O., asked him whether he brought the amount. When the complainant answered affirmatively the CO further demanded and accepted the same and kept it in his lungi. Chemical test proved on the right hand fingers of the C.O. Tainted amount was also recovered from the CO. Therefore, further demand and acceptance of bribe is proved. Hence the Member, TDP raised certain lapses regarding proving of phenolphthalein test underneath the pillow. The points raised by the Member, TDP are not so relevant here. Chemical test proved on his right hand fingers, lungi and also underneath the pillow. How the amount gone underneath the pillow is not a major point to be discussed here. The rule followed in a criminal trial that the offence is established unless the prosecution proves the case beyond reasonable doubt does not apply to departmental enquiries. The departmental enquiry is not a criminal trial and standard of proof is only preponderance of probability and not proof beyond all reasonable doubt.

iv) **Evidence:-** The Member, TDP observed that since the P.Ws. 1,2,4 & 5 had some apprehension that they would not get possession certificates from C.O., they would have made an attempt to implicate him in a false case, since the evidence adduced with regard to demand and receipt of bribe by C.O., appears to be false and suspicious. The Member, TDP has also observed that there is no corroborative evidence for further demand, since the complainant alone handed over the bribe amount.

3. The observation of the Member, TDP sounds reverse here, because, generally if any one have any doubt that they may not get the required certificate, they will try to oblige the demand but do not try to implicate some one with whom they have no earlier enmity. The CO had not given any reason on the day of trap or during inquiry, why the complainant implicated him falsely. He never stated any previous enmity and or any grudge on the day of trap or during investigation or during inquiry. Though the CO has not raised any point in this regard, the Member, TDP concluded the inquiry that the C.O., was implicated on false and suspicious complaint, but could not substantiate the reason for implicating the C.O., on false complaint. The TDP ought to have appreciated the evidence given by the P.Ws 1,2,4 and 5 instead of relying on the oral evidence of C.O. alone. The evidences available are more than sufficient to prove the charge on the Charged Officer.

4. Because of the above facts, Government disagree with the findings of the Enquiry of the Tribunal for Disciplinary Proceedings.

In the ref., 3rd read above, Government, with the above disagreement factors, communicated a copy of the Tribunal for Disciplinary Proceedings report with disagreement factors in terms of second proviso, u/r 6(2)(b) of the APCS(DPT) Rules, 1989 to Sri U.S.R. Anjaneyulu, Panchayat Secretary, (u/s) Krishna Dist., calling upon his explanation to take a provisional view.

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5. Sri U.S.R.Anjaneyulu, Panchayat Secretary (u/s), Krishna Dist., has submitted his explanation in the ref., 4th read above. On examination of his explanation, it is found that there are no suitable points to consider it, and also keeping in view the fact that the Accused Officer has retired from service on 30-06-2008, on attaining the age of superannuation, have provisionally decided to impose the penalty of (5%) cut in pension permanently on Sri U.S.R. Anjaneyulu, Pts., Secy (Retd.) for the irregularity by following the due procedure under A.P.Revised Pension Rules, 1980.

6. Accordingly, in the ref., 5th read above, a show cause notice has been issued to the charged officer calling for his explanation within 15 days from the date of the receipt of the notice on the proposed penalty through the District Panchayat Officer, Krishna, Machilipatnam. However, the District Panchayat Officer, Krishna, Machilipatnam, in the ref., 6th read above, has stated that the notice has been served to the individual on 23-7-2009 through their office Endt., Roc.No: 1184/03 Pts.3, dt:- 10-07-2009 and no explanation has been received so far from Sri U.S.R.Anjaneyulu, former Panchayat Secretary against the show cause notice issued to him.

7. Therefore, Government, hereby, impose the penalty of five percent (5%) cut in pension permanently against Sri U.S. R. Anjaneyulu, former Panchayat Secretary, Subbarayagudem Village, Penuganchiprolu Mandal, Krishna Dist., (now retired) for the irregularity of demanding and accepting bribe.

8. The Dist., Collector(PW), Krishna, Machilipatnam shall take necessary further action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M.V.P.C.SASTRY
PRINCIPAL SECRETARY TO GOVERNMENT

To

Sri USR Anjaneyulu, Pts., Secy.,(Retd.) through the District Panchayat Officer, Krishna, Machilipatnam.

The District Collector(PW), Krishna, Machilipatnam,

Copy to:- The Commissioner of PR&RE.,Hyderabad.

The Director-General, Anti-Corruption Bureau, Hyderabad.

The Secy., to APVC., Hyd.

//Forwarded : By Order//

SECTION OFFICER